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1952

File No. O. Court Fees/52

Legal DEPARTMENT

A BRANCH

p. 7(E)

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Subject:—

Opinions under the Court Fees Act, 1870

File No. O. Court Fees/52

Std. Sects. Slip 24 B e.

571-A

C O N T E N T S.

Legal Department File No. O.Court Fees/52.

S.No.	R.I. / O.No.	Subject	Pages.
		Opinions under the court fees Act, 1870.	
		O	
1)	11210 / 7.7.52.	Sec. 35 . Remission of court fee allowed on certain documents.	1 - 2
2)	11693 / 15.7.52	Article 11(b) - Re: Court Fee stamps to be affixed on appeal under sec. 42 of the B'bay Rents Hotel and Lodging House Rates(Control) Act, 1947.	3 - 4
3)	10421 / 23.6.52	Question whether the extracts of Khotas produced by Jagirdars from their account books in assistance suits are liable to court fee stamps as in the case of extracts from the Record of Rights produced for the purposes of such suits.	5 - 6
4)	16406 / 6.10.52	Re: proposal to amend the court fee Act, 1870 in order to chagge court fee on applications for domicile certificate.	7 - 8
5) No.27664 15.11.52	19545 / 22.11.52.	Whether it is obligatory on the part of the exhibitor of films to affix court fee stamp whenever a letter in the form of a request is written to the licensing officer or to any Govt. Office.	9 - 10
6)	20278A / 3.12.52	Re: Court fee chargeable on applications from preventions for supply of copies of judgments etc.	11- 12.

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R.I.No. 10124/22.5.52.

Office of the R.I.A.

Under clause 12(1) of Government Notification, Revenue Department No.590, dated 16th September 1921, as amended upto-date, which has been issued under section 35 of the Court Fees Act, 1870, the Governor-in-Council has been pleased -

"(12) to remit the fees chargeable on the following documents, namely :-

X X X X

X X - X X

(i) copies of judgments or depositions required by officers of the Police Department in course of their duties; The documents to which this remission applies are copies of judgments or depositions. Applications for such copies are independent documents in themselves and should be distinct from copies of judgments and depositions. Such applications are not covered by the remission abovementioned

Sd/- P.N. IAD,
5/7.

U.R. to R.D. No.11210, dated the 7th July 1952.

A-Cs.
N.V.V.
21/5.

Office of the R.L.A.

Court Fees Act, 1870.

Article 11(b).

The view taken in the L.& H.D. Office note at page 6 ante, is correct. The appeal memo under section 42 of the Bombay Rents, Hotel and Lodging Houses Rates Control Act, 1947 would be chargeable with a court fee stamp under article 11(b) in the Second Schedule to the Court-Fees Act, 1870 and together with the surcharge now leviable under the Bombay Court-fees (Repeal and Re-enactment) Act, 1948 would have to bear court fee stamp of Rs.2-8-0. It would be feasible to recover the deficit in court-fee from the ~~appeal~~ appellant under section 28 of the Court-fees Act.

Sd/- P.N.LAD,
14/7.

Remembrancer of Legal Affairs.

U.R. to L.& H.D. No.11693, dated the 15th July 1952.

A-Cs.
N.V.V.
21/5.

Office of the R.L.A.

Extracts from the Record of Rights fall under Article 9 of Schedule I of the Court Fees Act, 1870 and as such would be liable to payment of a Court fee as prescribed therein. But an extract from an entry in an account book or Khatavani which is in the nature of an account book does not require to be stamped under Article 24, Schedule I of the Stamp Act (See Kastur V. Fakir, 26 Bom. 522) and consequently would not be liable to any Court-fee under Article 8 Schedule I of the Court fees Act.

Sd/- P.M.LAD,
21/6

Remembrancer of Legal Affairs

U.R. to R.D. No. 10421, dated the 23rd June 1952.

A.Cs.
M.V.V.
21/6.

Office of the R.L.A.

Para 49 of the Civil Manual Volume I page 11 providing for the levy of fees to the attestation and affidavits and powers of attorney is based on Government Orders contained in Government Resolution No.2308, dated the 12th June 1871 which was issued on the basis of a letter from the Government of Indian to the Government of Punjab No.4445 dated the 29th October 1870 where it was clearly stated that the levy of fees was under executive orders of Government. In view of the Constitutional changes, it is doubtful whether such fees can be levied under executive orders. However that may be, so far as levy of a fee on applications for domicile certificates is concerned, it would be necessary that the Court fees Act should be amended for that purpose.

Sd/- P.M.LAD,
4/10.

Remembrancer of Legal Affairs.

U.O. to N.D. No.16406/A, dated the 6th October 1952.

A.Cs.
M.V.V.
21/5.

L.S.R.J.No.27664 dt. 15-11-42.

Submitted.

The Secy. of the Cinematograph Exhibitors' Association has inquired of Govt. whether it is obligatory on the part of the exhibitor to affix court fee stamp of As.10, whenever a letter in the form of a request is written to the licensing officer or to any Govt. office. In this connection, H.D. in its office note dated 12th November 1942 states :

"The D.Cs. and the C. Of P., Bombay are the licensing authorities under the Rules for Licensing and Controlling Theatres and other places of Public Amusement and also under the Cinematograph Act. It will be seen from entry (a)(1)(b) in Schedule II of the Court-fees Act that a Court fee stamp of of Annas 8 will have to be affixed to an application or a petition that is presented to any Magistrate in his executive capacity. It, therefore, appears that a court fee stamp of annas 8 (now as. 10 in view of surcharge)will have to be affixed to every application or letter that is addressed to the D.M.or the C.Of P., Bombay in his capacity as a licensing officer under the Rules for Licensing and Controlling Theatres and other places of Public Amusement or under the Cinematograph Act." The R.L.A. is, however, requested to advise whether this view is correct.

2. Under Art. 1(b) of Schedule II to the Court-fees Act, 1870, in respect of an application or petition presented to a Magistrate in his executive capacity and not otherwise provided for the Act, a court fee of annas 10 is payable. In view of this, application or petitions presented to the Magistrates and to the C.Of P., who is also a Magistrate, in their capacity as licensing officers will be liable to court fee. The view taken by H.D. is correct.

U.O.R. to H.D. No.19545-A dated 2?.11.42.

A-Cs.
H.V.V.
21/5.

D.O.No.29278-A.
Office of the Remembrancer of Legal Affairs,
Bombay, 3rd December 1952.

Please refer to your D.O. No. Dy. Ch./MIS., dated the 13th ~~September~~ October 1952.

2. Under item 12(i) of the Government Notification, Revenue Department, No.996, dated the 16th Sept. 1921, fees chargeable on " copies of judgments or depositions required by officers of the Police Department in the course of their duties " have been remitted. This has reference to Article 9 of Schedule I ~~thereof~~ thereunder Court fee is necessary for such copies. This exemption will not apply to applications for copies which would required court fee stamp as provided in Article 1 of Schedule II. This position appears to have been recognised in the High Court Circular wherein it is specifically stated that the applications will not be exempt fee from the Court Fee stamp. The Police Prosecutors will, therefore, be required to pay the Court fee stamp; but if it is intended to save the stamp fee, it can be done by making an oral application. (See R.L.A's Opinion No. 2852, dated 19.4.1945; Digest of Opinions, ~~#~~ P.188).

Yours

Sd/- P.M.LAD,

To,

Shri S.Y. Ranade, I.A.S.,
District Magistrate, Kolaba,
ALIBAG.

A-Cs.
M.V.V.
21/5.